

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA
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OFFICE OF THE CLERK

IN RE: CONTINUANCES DUE TO
NOVEL CORONAVIRUS AND COVID-
19 DISEASE.

GENERAL ORDER NO. 2020-04

The ongoing situation created by the spread of the novel coronavirus first detected in China, and the resulting outbreak of respiratory disease COVID-19 in Nebraska, has reached the point where court operations are affected. There are now several diagnosed cases in the District of Nebraska, and while many people who contract the virus are only mildly affected, others are at higher risk of serious or fatal illness. Many of those at higher risk are involved in court proceedings. And slowing the transmission of the virus in the community is an important part of mitigating the impact of the disease on vulnerable individuals and reducing the immediate burden on the health care system.

The Court maintains a robust capacity for conducting business remotely, and many court operations can and will continue unimpeded. But obviously, not all of the Court's work can be completed at a distance. In particular, the need for in-court hearings must be balanced against the risk associated with such contact, and jury proceedings are inadvisable in the current environment. "The American tradition of trial by jury, considered in connection with either criminal or civil proceedings, necessarily contemplates an impartial jury drawn from a cross-section of the community." *Thiel v. S. Pac. Co.*, 238 U.S. 217, 220 (1946). But that very cross-section—drawing together diverse members of the community—is against the best guidance of public health officials. Moreover, even assuming that the Court could draw a willing and able venire and try a case to submission, there is presently no way to assure that the jury's deliberations are unaffected by conflicting health and safety concerns. Accordingly,

IT IS ORDERED:


1. All civil and criminal matters scheduled for a jury trial to commence during the month of March 2020 before any judge in the District of Nebraska are continued pending further order of the Court. Other in-court hearings shall remain scheduled unless continued, on a case-by-case basis, by the district, magistrate, or bankruptcy judge. As provided by General Order 2020-03, the parties shall promptly notify one another and the Court if they have cause to believe that any such hearing cannot be held in a manner consistent with public health guidelines.
2. All grand jury proceedings that are scheduled in the District of Nebraska during the month of March 2020 are continued pending further order of the Court.
3. Because of the Court's inability to safely call and retain an adequate cross-section of jurors, and the effect of following public health recommendations on the availability of clients, counsel, and court staff to be present in the courtroom, the Court specifically finds that the ends of justice served by continuing all criminal proceedings outweigh the best interests of the public and any defendant's right to a speedy trial, and the period of delay occasioned by the continuances implemented by this General Order are excluded under the Speedy Trial Act pursuant to 18 U.S.C. § 3161(h)(7)(A). The failure of any defendant to object to this General Order will be deemed a waiver of any right to later claim the time should not have been excluded under the Speedy Trial Act.
4. Case progression deadlines in civil cases shall remain provisionally set, pending any case-specific adjustments to be made on motion from the parties or on the Court's own motion. Parties are encouraged to explore conducting discovery through means that avoid unnecessary travel or

personal contact, such as telephonically or through videoconferencing. Any dispute over whether discovery can be effectively accomplished in a manner consistent with applicable public health guidelines may be referred to the Magistrate Judge for resolution, specifically subject to the consultation requirements of NECivR 7.1(j).

5. While some court employees may be assigned to work remotely, the District's courthouses shall remain open, electronic filings will be processed, and the intake desk shall remain available for non-electronic filings. Staff in judge's chambers and the Clerk's Offices for the District Court and Bankruptcy Court will be available by telephone and email, and mail will be received. The public and the practicing bar are encouraged to continue using court services while following all applicable public health guidelines.
6. The Court will vacate, extend, or amend this General Order no later than March 31, 2020.

Dated this 13th day of March, 2020.

BY THE COURT:



John M. Gerrard
Chief United States District Judge